

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

PRIVATE AIDED DEGREE COLLEGES – A.P.High Court orders dt.8-11-2010 in W.P.No.13772 of 2008 filed by Sri Syed Murtuza Quadri, un-aided Attender, A.K.M. Oriental College, Kachiguda, Hyderabad – Regularization of services in terms of G.O.Ms.No.212, Finance & Planning (FW-PC-III) Department, dated 22-04-1994 – Orders – Issued.

HIGHER EDUCATION (CE.II-1) DEPARTMENT

G.O.Rt.No. 131

Dated:28-02-2011.
Read the following:-

1. G.O.Ms.No.212, Fin. & Planning (FW-PC-III) Dept., dt. 22-04-1994.
2. From the C.C.E., A.P., Hyd., Ir.Rc.No.716/Admn.IV-1/2003, dt.2-5-07.
3. Govt.Memo.No.5464/CE.II-2/2007 dated 09-01-2008.
4. Orders of the Hon'le High Court of A.P., Hyd., dated 08-11-2010 in W.P.No.13772 of 2008.
5. From the C.C.E., A.P., Hyderabad, Ir.Rc.No.716/Admn.IV-1/2003, dated: 4-12-2010.
6. From the High Court of A.P., Hyd., notice dated 01-02-2011 in C.C.No.59 of 2011 in W.P.No.13772 of 2007.
7. Opinion of Learned Advocate General, High Court of A.P., Hyderabad, dated 22-02-2011.

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ORDER: -

Sri Syed Murtuza Quadri, A.K.M. Oriental College, Kachiguda, Hyderabad has filed W.P.No.25090 of 2007. The Hon'ble High Court on 27-11-2007 in W.P.M.P.No.32708 in W.P.No.25090 of 2007 passed orders that the appropriate orders may be passed within a period of eight weeks from the date of receipt of a copy of the said order, and communicate the same to the petitioner.

2. In the Memo., 3rd read above, the Government have examined the matter, keeping in view of the directions of the Hon'ble High Court, A.P., Hyderabad and rejected the proposal of the Commissioner of Collegiate Education, A.P., Hyderabad for regularization of the services of Sri Syed Murtuza Quadri, A.K.M. Oriental College, Kachiguda, Hyderabad into the aided Class – IV post attender as per G.O.Ms.No.212 Finance and Planning, dated 22-4-1994 is not applicable to the contingent workers who are rendered service in the un-aided post.

3. Sri Syed Murtuza Quadri, AKM Oriental College, Kachiguda Hyderabad has again approached the Hon'ble High Court in W.P.No.13372 of 2008. The Hon'ble High Court in its order dated 8-11-2010 among other things held that:-

"The understanding of the Govt.of A.P.that G.O.Ms.No.212 dated 22.04.1994 is inapplicable to contingent staff is not correct. The amendment of Section 7 of the A.P.(Regulation of Appointments to Public Services and Rationalization of Staff Pattern and Pay Structure) Act, 1994, providing for regularization of all those completed five years service in accordance with the scheme formulated in G.O.Ms.No.212 dated 22.04.1994, speaks of employees in the categories of daily wage/NMR/consolidated pay/contingent worker on full time basis. Therefore, the exclusion of contingent workers from the ambit of G.O.Ms.No.212 dated 22.04.1994 as is borned out by the impugned proceedings cannot be countenanced. This aspect was also considered by the Supreme Court in A.Manjula Bhashini V/s The Managing Director, A.P.Women's Co-operative Finance Corporation Limited. In the light of the law laid down by the Supreme Court therein, once the employee be he a NMR/daily wage/consolidated pay/contingent worker, completed five years of service and was continuing in service as on 25.11.1993, he would be within the zone of eligibility for regularization of his services. The impugned proceedings reflect that no other ineligibility was identified in the petitioner in
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so far as G.O.ms.No.212 dated 22.04.1994 is concerned. He would therefore be entitled to consideration of his case in accordance with the said G.O. irrespective of whether he was a daily wage employee or a contingent worker.

In District Collector/Chairman V.M.L.Singh², the Supreme Court while clarifying that an employee to avail the benefit of G.O.Ms.No.212 dated 22.04.1994 has to satisfy all the conditions laid down therein upheld the direction of the High Court that such employee should be regularized as per the said G.O. with effect from the date he completes five years of continuous service. As the petitioner herein completed the requisite five years before the cut off date 25.11.1993, he would be entitled, as per the law laid down in A.Manjula Bhashini, to seek regularization of his service under the said G.O. In the light of the Supreme Court's observations in M.L.Singh, he would be entitled to regularization under the said G.O. with effect from the date that he completed the requisite five years in service.

The impugned proceedings dt.9.1.2008 are accordingly set aside. The respondents are directed to reconsider the case of the petitioner and regularize his services under G.O.Ms.No.212 dated 22.4.1994 in terms of the observations made supra. This exercise shall be completed within two (2) months from the date of receipt of a copy of this order".

4. The Advocate General, A.P., Hyderabad in his letter 7th read above, has informed that to file an Writ Appeal before the Hon'ble High Court against the orders of the Hon'ble High Court dated 8-11-2010 in W.P.No.13772 of 2008 and the orders is to be issued by the Government shall however the subject to the out come of the proposed Writ Appeal to be filed before the Hon'ble High Court.

5. In the circumstances reported by the Commissioner of Collegiate Education, A.P., Hyderabad in his letter 5th read above, and keeping in view the advise of the Advocate General, High Court of A.P., Hyderabad and also to comply with the orders of Hon'ble High Court, Andhra Pradesh, Hyderabad referred to above, after careful examination of the matter, the Government hereby accord permission to regularize the services of Sri Syed Murtuza Quadri, Attender, A.K.M. Oriental College, Kachiguda, Hyderabad in terms of G.O.Ms.No.212 Finance, dated 22-04-1994, from the prospective date i.e., date of issue of this order, subject to condition that the out come of the proposed Writ Appeal to be filed before the Hon'ble High Court, and also the said vacancy is clear, regular, continued from time to time till date and no senior eligible person is overlooked/omitted.

6. The Commissioner of Collegiate Education, A.P., Hyderabad, shall take action in the matter accordingly.

7. This order issues with the concurrence of Finance (PC-III) Department, vide their U.O.Note No.5501-A/124/A1/PC-III/2011, dated 26-02-2011.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

C.R. BISWAL,
PRINCIPAL SECRETARY TO GOVERNMENT.

To
The Commissioner of Collegiate Education, A.P., Hyderabad.
The Government Pleader for Higher Education, High Court of A.P., Hyderabad.

Copy to:-

The Correspondent, AKM Oriental College, Kachiguda, Hyderabad.
The Finance (PC-III) Department.
The Finance (Expr.HE) Department.
The P.S. to Prl.Secy. (HE)
SF/SCs.

// FORWARDED :: BY ORDER //

SECTION OFFICER.